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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

24 DEC 1971
25/12/72

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 10th December, 1971:—

BILL No. XXVIII OF 1971

A Bill to provide for better organisation and development of secondary education in the Union territories specified in the First Schedule to the Constitution.

BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Union Territories Secondary Education Act, 1971.

(2) It extends to the Union territories specified in the First Schedule to the Constitution.

Definitions.

2. In this Act, unless the context otherwise requiries:—

(*a*) "Administrator" means the Administrator of Union territory appointed under article 239 of the Constitution;

(*b*) "aid" means any aid granted to a recognised school by the Central Government or a local authority;

(c) "aided school" means any school receiving aid out of the funds of the Central Government or a local authority;

(*d*) "Board" means the Central Board of Secondary Education;

(*e*) "Director" means an officer authorised by the Administrator to perform all or any of the functions of the Director under this Act;

(*f*) "Education Officer" means an officer authorised by the administrator to perform all or any of the functions of Education Officer under this Act;

(*g*) "existing employee" means an employee of an existing school whose appointment as such has been approved by the Director or Education Officer;

(*h*) "existing school" means a school which is in existence at the commencement of this Act and which, having been recognised by an appropriate authority, continues to be so recognised immediately before such commencement;

(*i*) "head of school" means the principal academic officer, by whatever name called, of a recognised school;

(*j*) "inspector" means an Inspector of Schools or the Assistant Director of Education for Women or Assistant Education Officer and includes any other officer authorised by the Administrator to perform all or any of the functions of an inspector;

(*k*) "manager" means a person appointed or deemed to have been appointed to be the manager under sub-section (*1*) of section 6 and approved by the Director or the Education Officer;

(*l*) "Managing Committee" means the committee of management constituted under the scheme of management referred to in section 5 and includes any other body charged with the management of the affairs of a school;

(*m*) "prescribed" means prescribed by rules made under this Act;

(*n*) "public examination" means an examination conducted by any authority recognised by the Director or the Education Officer for such purpose;

(*o*) "recognised school" means a school recognised or deemed to have been recognised by the Director or the Education Officer under section 3;

(*p*) "school" means an institution for providing secondary education and includes—

(*i*) a composite school for providing primary, middle and secondary education;

(*ii*) any school in which provision exists for class IX and proposals are pending for the opening of classes X and XI;

(*q*) "school property" includes land, buildings, playgrounds, hostels and movable properties such as furniture, apparatus, equipment, books, maps and utensils;

(*r*) "secondary education" means full time general, vocational, technical, special or any other type of education which leads to the secondary, higher secondary or equivalent public examination;

(*s*) "teacher" includes the head of a school;

(*t*) "Union territory" means any Union territory specified in the First Schedule to the Constitution and includes any other territory comprised within the territory of India but not specified in that Schedule.

Recognition of schools.

3. (*1*) The Director or Education Officer or any other authority specified in this behalf by the Central Government may, on application made to it in the prescribed form and in the prescribed manner, recognise any school:

Provided that no school shall be recognised if—

(*a*) it does not have adequate funds to ensure financial stability; or

(*b*) it does not have a duly approved scheme of management as required by section 5; or

(*c*) it does not have suitable accommodation with adequate sanitary and seating arrangements; or

(*d*) its premises or any part thereof is used as a shop, an office or a residence unconnected with the activities of the schools; or

(*e*) it does not have the prescribed facilities for physical education, library service, laboratory work, workshop practice or co-curricular activities; or

(*f*) it is named after a sect or caste.

(*2*) Where recognition to a school is refused on the ground of its being named after a sect or caste the management of such school may appeal against the order in the prescribed manner to such authority as may be prescribed in this behalf by the Central Government whose decision thereon shall be final.

(*3*) Where the management of a school obtains recognition for the school by fraud, misrepresentation or suppression material particulars or where, after obtaining recognition, the school fails to continue to comply with any of the conditions specified in the proviso to sub-section (*1*), the authority granting the recognition may after giving the management of the school an opportunity of showing cause, withdraw the recognition granted to such school under sub-section (*1*).

(*4*) The recognition granted under sub-section (*1*) shall not by itself entitle any school to receive aid.

(*5*) Every existing school shall be deemed to have been recognised under this section:

Provided that where any such school does not satisfy any of the conditions specified in the proviso to sub-section (*1*), the prescribed authority may require the school to satisfy such condition within a specified period and if any such condition is not so satisfied, recognition may be withdrawn from such school.

(*6*) Every school whose recognition is withdrawn under sub-section (*3*) or sub-section (*5*) may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be prescribed.

Annual list of recognised schools.

4. The Central Government shall publish on or before the first day of May of every year, in the Official Gazette, and in such other manner as may be prescribed, a list of all recognised schools.

Scheme of Management.

5. (*1*) Notwithstanding anything in any law for the time being in force or in any instrument having effect by virtue of any such law, there shall be a scheme of management for every recognised school.

(*2*) The Administrator shall formulate a model scheme of management and the same shall be published in the Official Gazette.

(*3*) The Managing Committee of every existing school shall within fifteen days from the publication of the scheme of management under sub-section (*2*), prepare and submit to the Administrator a scheme or management for such school which shall, so far as practicable, be in conformity with the model scheme aforesaid.

(*4*) The Administrator may, after considering the scheme of management submitted to him under sub-section (*3*), approve such scheme with or without modifications.

(*5*) The scheme of management shall among other things, provide for the constitution of a Managing Committee, by whatever name called, vested with authority to manage and conduct the affairs of the school.

(*6*) Subject to any rules in this behalf and the requirements of section 6, the scheme of management of every recognised school shall specify the respective powers, duties and functions of the head of the school and of the Managing Committee of the school:

Provided that in respect of a Government school the composition, powers, functions and the manner of working of the Managing Committee shall be such as may be prescribed.

(*7*) The head of the school and two other teachers thereof chosen according to seniority by rotation in the prescribed manner shall be *ex-officio* members of the Managing Committee.

(*8*) No member of the Managing Committee shall be entitled to vote or otherwise participate in any meeting of the committee whenever a charge concerning his personal conduct is under discussion.

(*9*) Where any person maintains more than one recognised school, there shall be a separate Managing Committee for each such school.

(*10*) Every recognised school shall be managed in accordance with the scheme of management approved under this section.

Managers of schools.

6. (*1*) The Managing Committee constituted under section 5 of a recognised school other than a Government school may, subject to the approval of the Director, Education Officer, appoint any person to be the manager of the school:

Provided that any person functioning as a manager in respect of a recognised school having a Managing Committee and who has already been approved by the Director or Education Officer shall be deemed to have been appointed under this sub-section but only so long as the scheme of management of the school is not approved under sub-section (*4*) of section 5.

(2) Any manager of a recognised school may resign his office by giving notice in writing of his intention so to do to the authority appointing him.

(3) A copy of such notice shall be simultaneously sent by him to the Director or the Education Officer.

(4) It shall be the duty of the manager to—

(a) maintain in proper and good condition the school property placed under his control by the Managing Committee;

(b) maintain such records and accounts and furnish such statements and returns as may be prescribed;

(c) afford all assistance and facilities as may reasonably be necessary for the inspection of the school and its records and accounts by the inspector or any authority specified in this behalf by the Director or the Education Officer; and

(d) generally, conduct the school in accordance with the provisions of this Act and the rules made thereunder.

Closure of Schools prohibited.

7. (1) No school or class in a school shall be closed by the manager without notice in writing to that effect to the Director or the Education Officer:

Provided that no school or class in a school shall be so closed before the expiry of six months from the date of the receipt by the Director or the Education Officer of the notice or the expiry of the academic year in which the notice is given, whichever is later:

Provided further that no such notice shall be withdrawn without the consent of the Administrator.

(2) If at any time after notice has been given under sub-section (1) the manager of the school informs the Director or the Education Officer that he is unable or unwilling to carry on the management of the school or class till the expiry of the period specified in the proviso to sub-section (1) the Director or the Education Officer may arrange to manage the school or class during the whole or any part of the unexpired portion of such period:

Provided that no additional liability shall fall on the Government in respect of the school or class during the period in which the Director or the Education Officer so arranges to manage the school or class.

(3) In the event of the school being discontinued or down-graded or taken over or its recognition being withdrawn, the manager shall make over to the Director or the Education Officer or any authority authorised by him in this behalf all the records and accounts of the school maintained under sub-section (4) of section 6.

Punishment for maintenance of false accounts etc.

8. Any manager who fails to comply with the provisions of clause (b) or clause (c) of sub-section (4) of section 6 or willfully maintains a false statement of accounts, shall, without prejudice to any other action that may be taken against him, be liable to be removed from managership:

Provided that before an order for removal of the manager from managership is passed, he shall be given an opportunity to show cause against such removal.

Aid to recognised schools.

9. (*1*) The Central Government may, after due appropriation made by Parliament by law in this behalf, and subject to such conditions as may be prescribed, pay to any recognised school by way of aid such sums of money as the Central Government may consider necessary:

Provided that no existing school receiving aid shall be eligible for the continuance of the aid unless it complies with the prescribed conditions within such period as may be specified in this behalf.

(*2*) The authority competent to grant the aid may stop or suspend the aid for violation of any of the conditions prescribed by the rules made in this behalf or for any other good and sufficient cause.

(*3*) The aid may cover either the full expenditure or such part of the expenditure of the school as may be prescribed under the rules.

(*4*) The salaries and allowances of teachers and other employees of the school for the period for which aid is given shall be the first charge on such aid and no payment out of the aid shall be made or committed to be made before making payment to the teachers and other employees of their salaries and allowances for the period aforesaid.

(*5*) If the manager or the Managing Committee fails to comply with, or in any other manner contravenes, the provisions of sub-section (*4*), the manager or as the case may be, the Managing Committee shall be deemed to have neglected his or its duties within the meaning of sub-section (*1*) of section 18.

(*6*) No aid shall be paid to a school which has been taken over under section 18.

School property.

10. (*1*) By the 30th day of April each year, the manager of every aided school shall furnish to the Director or the Education Officer a statement containing a list of the school property together with such particulars as may be prescribed.

(*2*) Notwithstanding anything to the contrary contained in any other law for the time being in force, no transfer or lease of any immovable property of an aided school shall be made except with the previous permission in writing of the Administrator.

(*3*) Any person aggrieved by an order of the Administrator under sub-section (*2*) may, in such manner and within such time as may be prescribed, appeal to the Central Government whose decision thereon shall be final.

(*4*) Any transaction made in contravention of the order of the Administrator or, as the case may be, the decision of the Central Government shall be void.

Terms and conditions of service of teachers and other employees.

11. (*1*) The terms and conditions of service (including conditions regarding recruitment) of teachers and other employees of an aided school shall be such as may be prescribed.

(*2*) Subject to any rule that may be made in this behalf, no teacher of an aided school shall be dismissed, removed, reduced in rank or suspended, nor shall his services be otherwise terminated without the previous sanction in writing of the Director or the Eduction Officer.

(3) Any teacher of an aided school aggrieved by any order under sub-section (2) may appeal to the prescribed authority who shall dispose of the appeal in such manner as may be prescribed.

(4) No person shall be disqualified for being appointed as, or for being, a teacher or any other employee of an aided school by reason only of his religious opinion or of his attendance or non-attendance at any religious worship or religious instruction.

Salaries of teachers and other employees of aided schools.

12. (1) The salaries of teachers and other employees of an aided school shall be disbursed every month by the manager or by the prescribed authority within the prescribed time and in the prescribed manner, failing which it shall be competent for the Director or the Education Officer to disburse or arrange to disburse the full approved salary of any teacher or other employee.

(2) For the purpose of sub-section (1) it shall be lawful for the Director or the Education Officer either to withdraw the aid or, as the case may be, draw on reserve and other funds of the school.

(3) Where there is any dispute regarding the salary or other dues to a teacher or other employee, the teacher or the other employee may make an application to the prescribed authority regarding the dispute and thereupon the prescribed authority shall, after giving an opportunity to the teacher or the other employee and the management to present their case, decide the matter which decision shall be binding on the teacher or the employee and the management:

Provided that pending a decision on such application, the teacher or the other employee concerned shall continue to accept the amount offered or being offered to him by the manager or the Director or the Education Officer.

Affiliation.

13. For the purpose of conducting public examination, all Government and aided schools shall be affiliated to the Board and shall fulfil the conditions prescribed by the Board in this behalf.

Fees.

14. No aided school shall levy any fee or any other charge at a rate exceeding the prescribed rate and such fees and other charges may be collected and accounted for in the prescribed manner.

Admission of persons.

15. (1) (a) No person who has not attained the age of five years shall be admitted to class I or equivalent class in a Government or recognised school.

(b) No person studying in any such school shall, without the permission in writing of the Director or the Education Officer, be retained in the school after such person has attained the age of twenty years.

(2) Admission of persons into aided schools shall be made in the prescribed manner.

School fund.

16. (1) In every aided school there shall be a fund to be called the school fund and there shall be credited thereto—

(a) any monetary aid granted by the Central Government,

(b) income accruing to the school by way of fees, and

(c) any other contributions, endowments and the like.

(2) The school fund and all other funds, including the Pupils Fund, established with the approval of the Administrator shall be accounted for and operated upon in accordance with the rules made under this Act.

Inspection.

17. (1) Every recognised school shall be inspected at least once in each financial year in accordance with the prescribed rules.

(2) The Director or the Education Officer may also arrange special inspection of any school on such aspects of its working as may, from time to time, be considered necessary by him.

(3) The Director or the Education Officer may give directions to the manager requiring the manager to rectify any defect or deficiency found at the time of inspection or otherwise in the working of the school.

(4) If the manager fails to comply with any direction given under sub-section (3), the Director or the Education Officer may, after considering the explanation or report, if any, given or made by the manager, take such action as he may think fit, including—

(a) stoppage of aid,

(b) withdrawal of recognition, and

(c) taking over of the school under section 18.

Taking over of aided schools.

18. (1) Whenever it appears to the Administrator that the manager or Managing Committee of any aided school has neglected to perform any of the duties imposed by or under this Act, and that in the public interest it is expedient to take over the management of the school, he may, after giving the manager reasonable opportunity of showing cause against the proposed action, take over the management of that school for a period not exceeding five years.

(2) After taking over the management of any school under this Act, the Administrator may arrange to manage the school through the Director or the Education Officer or any other person as may be considered expedient from time to time.

(3) Where the management of any aided school has been taken over under sub-section (1), the manager of the school may, within three months of the date of the taking over, represent to the Central Government for the restoration of the Management of the school; and on considering the representation, the Central Government may order the restoration of the same.

(4) Where the management of any aided school has been taken over under this Act, the Administrator shall pay such rent for the building of the school, if any, to the person entitled to receive it as was being paid by the management before the taking over.

(5) During such period as any aided school remains under the management of the Administrator under this Act—

(i) the approved conditions of service of the existing employees of the school shall not ordinarily be adversely affected;

(ii) all educational facilities which the school had been affording immediately before such taking over shall ordinarily continue to be afforded; and

(*iii*) the school fund shall continue to be available to the Administrator for being spent on the school.

(6) The Central Government may, if it deems it expedient, of its own motion or on the application of the previous management, discontinue a school taken over under this Act, and on such discontinuance the liability of the Central Government to run the school shall cease.

(7) Any order made or direction given under this section shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument relating to the management of the school.

Exemption of immovable property.

19. The Central Government shall, while taking over the management of any school, exempt any immovable property from being so taken over if such property is being used for any religious purpose, or if the Central Government is satisfied that such property on account of its proximity to any buildings of worship should be exempted.

Advisory Committee.

20. There shall be an Advisory Committee on Education which shall assist the Director or the Education Officer in formulating major policies about education and may be consulted by the Director of the Education Officer on such matters as he thinks fit.

Power to give directions.

21. It shall be lawful for the Central Government to give any direction not inconsistent with the provisions of this Act to the manager or the Managing Committee of a school in respect of any of the following matters, namely:—

(*i*) syllabus,

(*ii*) text books and other reading material,

(*iii*) conditions of service of teachers,

(*iv*) sanitary facilities, and

(*v*) any other matter that may be prescribed.

Delegation.

22. The Central Government may delegate all or any of its powers, duties or functions under this Act to the Administrator or any other officer subordinate to him.

Exemption.

23. If the Central Government is of the opinion that it would not be expedient to make the provisions of this Act applicable to any school having regard to its financial resources, character, location or other relevant considerations, it may, by notification in the Official Gazette, exempt such school, either generally or subject to such conditions, if any, or for any period to be specified in the notification from all or any of the provisions of this Act.

Protection of action taken in good faith.

24. No suit, prosecution or other legal proceeding shall lie against the Central Government or any authority or any officer appointed under this Act for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

Bar of jurisdiction.

25. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Central Government or any officer or authority appointed or specified under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Power to make rules.

26. (*1*) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form and manner of making an application for recognition of a school;

(*b*) the facilities for physical education, library service, laboratory work, workshop-practice or co-curricular activities to be provided in a recognised school;

(*c*) the authority to which and the manner in which an appeal may be preferred under sub-section (*2*) of section 3;

(*d*) the authority to which an appeal shall be under sub-section (*6*) of section 3 and the manner of disposal of such appeal;

(*e*) the manner of publication of the annual list of all recognised schools under section 4;

(*f*) the composition, powers, functions and the manner of working of the Managing Committee and the manner of choosing the *ex-officio* members thereof under sub-section (*7*) of section 5;

(*g*) the records and accounts to be maintained and the statements and returns to be furnished under clause (*b*) of sub-section (*4*) of section 6;

(*h*) the conditions of the grant of aid to recognised schools under section 9 and matters connected therewith;

(*i*) the particulars to be contained in the statement to be furnished to the Director or the Education Officer under sub-section (*1*) of section 10 regarding the school property;

(*j*) the manner in which and the time within which an appeal shall lie to the Central Government under sub-section (*3*) of section 10;

(*k*) the authority to which an appeal shall lie under sub-section (*3*) of section 11 and the manner of disposal of such appeal;

(*l*) the terms and conditions of service (including conditions regulating recruitment) of teachers and other employees of aided schools;

(*m*) the authority who shall disburse the salaries of teachers and other employees of an aided school under sub-section (*1*) of section 12, the time within which and the manner in which the same shall be disbursed and the authority to which an application may be made under sub-section (*3*) of that section.

(*n*) the rate exceeding which no fee or other charges shall be levied by an aided school and the manner of collection and accounting of the fees and other charges;

(*o*) the admission of persons into aided schools;

(*p*) the manner of accounting and operation of the school fund and all other funds under sub-section (2) of section 16;

(*q*) the manner of inspection of recognised schools; and

(*r*) any other matter which is to be, or may be prescribed under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rules or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Removal of difficulties.

27. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as may appear to it to be necessary or expedient for removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

For the past several years the working and the management of a number of private secondary schools in the Union territories is under severe criticism in spite of the fact that out of the total expenditure incurred by the private institutions 95 per cent is met out of the Central Government exchequer. The main criticisms centre round (*i*) violation of executive instructions regarding timely payment of salaries to teachers, (*ii*) failure to create a Reserve fund, (*iii*) recruitment of teachers with lower than the prescribed qualifications, (*iv*) unauthorised borrowing of money from the Pupils' Fund by the managements of schools, (*v*) use of the school premises for anti-social activities, (*vii*) hiring of school premises to public during the school sessions, and (*vii*) collecting compulsory donations to meet the managements' share of the maintenance expenditure of the schools.

2. At present the Administrators of the Union territories have no legal power to compel the managements of private schools to abide by the rules and regulations governing the terms and conditions of service of teachers, the payment of salaries of the employees regularly, the maintenance of the quality of education in the institutions or to ensure their financial stability. The Administrator can, of course, stop or suspend the payment of grant to the school in question; but recourse to such measures adversely affects the interests of the teachers and also of the pupils. It has therefore, become necessary for the Government to have the necessary statutory authority to require the school managements to run the schools in conformity with the prescribed conditions for ensuring improved quality of instruction. The Bill seeks to achieve this purpose.

N. G. GORAY.

NEW DELHI;
The 4th October, 1971.

FINANCIAL MEMORANDUM

Clause 9 of the Bill provides for the payment to recognised schools of grants subject to prescribed conditions. The grant may be of recurring or non-recurring character. The aided schools are given grants on recurring basis in respect of salaries and allowances of employees, including the employers' contribution towards the Contributory Provident Fund, contingent expenditure on account of stationery, repairs and renewal of furniture, telephones, etc., rent for the buildings hired for tne schools and depreciation of the school and hostel buildings owned by the institutions. The schools are also paid non-recurring grant towards expenditure on the construction of buildings for school and for purchase of approved items of equipment, furniture, science material, library books, etc. For both the recurring and non-recurring grants, a percentage of ceiling is prescribed. These grants will continue to be paid according to these rates, subject of course to such revisions as may be decided upon from time to time. The quantum of grants depends on factors like the number of schools, and employees, and is likely to vary from year to year. It is thus, not possible to give precise details of the expenditure involved. The scheme will however entail a non-recurring expenditure of Rupees 20 lakhs and recurring expenditure of Rupees 220 lakhs a year.

2. Clause 17 requires that every recognised school shall be inspected at least once in each financial year. At present the inspection of aided schools is carried out by the inspection staff of the Directorate of Education and no separate staff is available exclusively for the non-Government schools. After the passage of this Bill, the Director or the Education Officer will have to ensure that the provisions of the Act are complied with and if for that purpose he finds it necessary to employ more staff, he will take necessary action, with the approval of the Central Government. At this stage, it is difficult to determine the complement of additional staff that may be required or the exact amount of additional requirements and expenditure likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 26 of the Bill seeks to empower the Central Government to make rules in relation to certain matters. The matters in respect of which the Central Government may make rules relate, *inter alia*, to:

(*i*) the conditions pertaining to the grant of recognition to schools:

(*ii*) the conditions governing the payment of grant to schools, admission of persons and collection of fees;

(*iii*) the term and conditions of service (including conditions regulating recruitment) of teachers and other employees of aided schools;

(*iv*) inspection and supervision of schools.

2. These matters pertain to procedure, form or detail and as such the delegation of legislative power is of a normal character.

B. N. BANERJEE,
Secretary.

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